



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/676,795	09/30/2003	Mark R. Richards	42P17287	8367

7590 11/04/2005  
Michael A. Bernadicou  
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP  
Seventh Floor  
12400 Wilshire Boulevard  
Los Angeles, CA 90025

EXAMINER
----------

SMOOT, STEPHEN W

ART UNIT	PAPER NUMBER
----------	--------------

2813

DATE MAILED: 11/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

18

<b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b>	<b>Application No.</b> 10/676,795	<b>Applicant(s)</b> RICHARDS ET AL.	
	<b>Examiner</b> Stephen W. Smoot	<b>Art Unit</b> 2813	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 27 October 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b) ☐ They raise the issue of new matter (see NOTE below);  
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
 5. ☒ Applicant's reply has overcome the following rejection(s): The rejection of claim 11 under 35 USC 112, first paragraph.  
 6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
 The status of the claim(s) is (or will be) as follows:  
 Claim(s) allowed: 11.  
 Claim(s) objected to: None.  
 Claim(s) rejected: 1-10 and 12-20.  
 Claim(s) withdrawn from consideration: None.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_  
 13. ☐ Other: \_\_\_\_\_

*Stephen W. Smoot*

Stephen W. Smoot  
 Patent Examiner  
 Art Unit 2813

Continuation of 11. does NOT place the application in condition for allowance because: Regarding claims 1-10, the applicant argues that the titanium oxide layer (68) originally disclosed as having a thickness of at least 150 angstroms is an example of the as claimed first portion and the titanium nitride layer (44) originally disclosed as having a thickness between 50 and 100 angstroms is an example of the as claimed second portion. However, claim 1 as amended on 16 May 2005 has the limitation "an interface material having first and second portions", which implies that the first portion and the second portion are made of the same material. So, the applicant's original disclosure does not have support for the first portion (e.g. titanium oxide) and the second portion (e.g. titanium nitride) being made of the same material. Claim 11 is allowed because the claim does not require the second and fourth layer to be made of the same material. However, regarding claims 12-20, the applicant's original disclosure does not have support for the limitation "the thickness of each interface section is at least 150 angstroms" as set forth in claim 12, when combined with the limitation "each upper interface section having a second thickness that is greater than ... the first thickness" from claim 11, because the applicant relies on the originally disclosed titanium nitride layer (44) with a thickness between 50 and 100 angstroms to support this limitation. Claims 13-20 also remain rejected under 35 USC 112, first paragraph, because they depend on claim 12. Further, regarding claim 19, the applicant's original disclosure does not have support for the limitation "the interface sections are made of titanium oxide", when combined with the limitation "each upper interface section having a thickness that is greater than ... the first thickness" from claim 11, because the applicant relies on the originally disclosed titanium nitride layer (44) as an example of an interface layer of smaller thickness (i.e. a layer that is not titanium oxide).